

### REMARKS/ARGUMENTS

The Applicants originally submitted Claims 1-20 in the application. In previous responses, the Applicants amended Claims 1-12 and 14-20. In the present response, the Applicants have amended Claims 1-4, 6, 8 and 15, added Claim 21 and canceled Claim 12 without prejudice or disclaimer. Support for the amendment can be found, for example, in paragraphs 15, 18 and 20 of the original specification. Accordingly, Claims 1-11 and 13-21 are currently pending in the application.

#### **I. Rejection of Claims 1-20 under 35 U.S.C. §103**

The Examiner rejected Claims 1-20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,772,586 to Heinonen, *et al.* in view of US. Patent Application Publication No. 2005/0239493 to Batkin, *et al.* for Claims 1-13 and 15-20, and further in view of U.S. Patent No. 6,112,103 to Puthuff for Claim 14. The Applicants respectfully disagree in view of the present amendment.

Independent Claims 1, 8 and 15 have been amended to, in general, reflect a mobile telephone having a vital sign sensor **fabricated within a chassis** thereof wherein the vital sign sensor and a display of the mobile telephone **are on different sides** of the mobile telephone. (*See* amended independent Claims 1, 8 and 15.) As such, a user can observe the vital sign information during a measurement.

The Examiner recognizes that Heinonen does not teach or suggest a vital sign measuring system having a vital sign sensor fabricated within a chassis of the mobile telephone. To cure this

deficiency, the Examiner relies on Batkin. (See Examiner's Action, page 4.) Batkin, however, relates to a telephone having sensors configured to obtain bio-signals while the telephone is in the position for normal speaking use of the telephonic device. (See the Abstract and Figures 1-3.) As such, Batkin fails to teach or suggest a mobile telephone having a vital sign sensor fabricated within a chassis thereof **and** wherein the fabricated vital sign sensor and a display of the mobile telephone are on different sides of the mobile telephone. More specifically, Batkin fails to teach or suggest a mobile telephone as recited in amended Claims 1 and 15 wherein a microphone and display of the mobile telephone are on a different side of the mobile telephone as a vital sign sensor. Regarding Claim 8, Batkin also fails to teach or suggest a method of employing a mobile telephone to measure a vital sign including providing the vital sign information to the user via a display of the mobile telephone while obtaining the vital sign information, wherein the display is located on a first side of the mobile telephone and the vital sign sensor is located on a second side of the mobile telephone that is different from the first side. For Batkin to suggest such a mobile telephone would render it inoperable for its intended purpose of a telephone having sensors configured to obtain bio-signals **while the telephone is in the position for normal speaking use.**

As such, the applied combination of Heinonen and Batkin does not provide a *prima facie* case of obviousness of amended independent Claims 1, 8 and 15 and Claims dependent thereon. Additionally, Puthuff was not even cited by the Examiner to address the independent Claims but to teach the subject matter of dependent Claim 14. (See Examiner Action, pages 9-10.) Thus, the addition of Puthuff to the cited combination of Heinonen and Batkin also fails to provide a *prima facie* case of obviousness of amended independent Claims 1, 8 and 15 and Claims dependent

thereon. Accordingly, the Applicants respectfully request the Examiner withdraw the §103(a) rejection of the pending Claims and allow issuance thereof.

Furthermore, the Applicants point out amended dependent Claims 2-4, 6, and new dependent Claim 21.

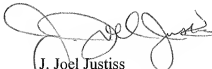
## II. Conclusion

In view of the foregoing amendment and remarks, the Applicants now see all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1-11 and 13-21.

The Applicants request the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

HITT GAINES, PC



J. Joel Justiss  
Registration No. 48,981

Dated: September 17, 2008

P.O. Box 832570  
Richardson, Texas 75083  
(972) 480-8800